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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,262	10/05/2004	Ronaldus Maria Aarts	NL 020282	8728
24737 7590 07/15/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
BAYOU, YONAS A				
ART UNIT		PAPER NUMBER		
2434				
MAIL DATE		DELIVERY MODE		
07/15/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/510,262	<b>Applicant(s)</b> AARTS ET AL.
<b>Examiner</b> YONAS BAYOU	<b>Art Unit</b> 2434

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 07 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-11.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See Continuation Sheet.

/Kambiz Zand/  
Supervisory Patent Examiner, Art Unit 2434

Continuation of 13. Other: Continuation of 13. Other: Applicants remarks have been considered, but are not persuasive with respect to claims 1-2 and 4-11. Examiner Responses 103(a): applicant states: Thomas or Lambrecht does not teach the limitations: "enabling the ability to identify the listener by comparing identified parameters in audio data with parameters being stored in a database.", Examiner respectfully disagrees with applicant. Examiner notes that Lambrecht teaches the HRTF is unique to each individual and is affected by the shape and size of the head, the shape and size of the pinnae, the characteristics of the ear canal and the relationship of the shoulder to the ear. The user inputs the actual perceived position of the sound to the computer [abstract and fig. 2; the existence of the HRTF itself identifies the user/listener and inputting the perceived position of the sound can identify the listener as well since HRTF is unique to individuals]. Applicant also states: Thomas or Lambrecht does not teach the limitations: "detecting said first listener parameters used for changing the audio impression of said audio signal, comparing said detected first listener parameters with second listener parameters and playing back said changed audio signal if said detected first listener parameters identify a listener being identical to the listener identified by said second listener parameters." , Examiner respectfully disagrees with applicant. Examiner notes that Lambrecht teaches if sounds from multiple positions were output, positional errors are calculated for each expected perceived position [5:55-58 and fig. 2; as seen above in the abstract, the sound is output from fixed positions and there is an acceptable range of positional errors that a user can listen the audio but if it is out of the acceptable range of errors, the HRTF (unique to individuals) is adjusted or new HRTF is processed all these teach detecting the positions, comparing the positions and playing back the audio; the user input to the computer detects the user/listener as well]. Applicant further states: Thomas or Lambrecht does not teach the limitations: "allowing the listener to select an audio impression of specific interest.", Examiner respectfully disagrees with applicant. Examiner notes that Lambrecht teaches adjusting or new HRTF corresponding to changing the sets of listener parameters (see abstract)]. Respectfully, this is examiners respond and reasoning as to find applicant's remarks not persuasive.